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August 29, 2022

By ECF

Hon. Naomi Reice Buchwald
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

Plaintiffs' application for a stay of enforcement pending their appeal to the Second Circuit pursuant to Rule 62(d) of the Federal Rules of Civil Procedure is denied for the same reasons the Court denied the application for injunctive relief. See ECF No. 184.
SO ORDERED.

Re: Kane, et al. v. Bill de Blasio, et al., No. 21 Civ. 7863
Keil, et al. v. The City of New York, et al., No. 21 Civ. 8773


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
August 29, 2022

Dear Judge Buchwald:

Pursuant to Rule 62(d), Plaintiffs request that this Court grant an injunction staying enforcement of the DOE's vaccine mandate against Plaintiffs pending appeal of this Court's August 26, 2022 Order denying Plaintiffs' motion for a preliminary injunction and dismissing the case, which Plaintiffs have appealed to the Court of Appeals. In the alternative, Plaintiffs respectfully request a stay of the September DOE vaccination deadlines offering terminated employees their jobs if they get vaccinated and threatening termination of employees on leave without pay if they do not. Plaintiffs seek a stay of these deadlines until a motions panel at the Court of Appeals can review Plaintiffs request for an emergency injunction.

Plaintiffs rely on the papers submitted previously in support of their aforesaid denied motion. Each day represents fresh ongoing irreparable harm, as Plaintiffs and their colleagues are forced to choose between their faith and their job, in violation of the First Amendment. Loss of such First Amendment rights "for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 US 347, 373 (1976).

Respectfully submitted,

/s/ Jonathan R. Nelson
Counsel for Keil Plaintiffs

/s/ Sujata S. Gibson
Counsel for Kane Plaintiffs

cc: All counsel via ECF